

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
GREENVILLE DIVISION**

**MARY L. AUSTIN, et al**

**PLAINTIFFS**

**VERSUS**

**CIVIL ACTION NO. 4:04CV33-P-B**

**THE PROVIDENT BANK, et al**

**DEFENDANTS**

**ORDER**

Upon consideration of the file and record of this action, the Court finds that the Report and Recommendation of the United States Magistrate Judge dated January 31, 2007, was on that date duly served by regular mail upon the remaining plaintiffs and the remaining defendants at their last known addresses, that more than ten days have elapsed since service of said Report and Recommendation; and that only plaintiffs Jesse Payne, Jr., and Ray and Willie Weathers filed an objection within the specified time.

The above-referenced plaintiffs explained their failure to appear for the scheduled pre-trial conference to the satisfaction of Magistrate Eugene M. Bogen as indicated by the Order entered February 15, 2007. As a further matter, the Court is advised that the defendants are in the process of finalizing a settlement agreement with these plaintiffs. Accordingly, there is nothing to be gained by a Rule 41 dismissal of the claims asserted by Jesse Payne, Jr. And Ray and Willie Weathers.

Pro se litigants Mary Austin and Twrana Harris failed to file objections to the Report and Recommendation. As a further matter, they failed to respond to dispositive motions currently pending against them. Therefore, the Court is of the opinion that the magistrate judge's Report and Recommendation should be approved and adopted as the opinion of the Court as to the claims

advanced by them. It is, therefore

**ORDERED:**

1. That the Report and Recommendation of the United States Magistrate Judge dated March 10, 2006, is approved and adopted as the opinion of the Court with regard to the claims of Mary Austin and Twrana Harris;

2. That the claims of plaintiffs Austin and Harris are hereby dismissed without prejudice pursuant to Rule 41.

**SO ORDERED**, this the 26<sup>th</sup> day of February, 2007.

/s/ W. Allen Pepper, Jr.  
W. ALLEN PEPPER, JR.  
UNITED STATES DISTRICT JUDGE